

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 73-2, PALM BEACH COUNTY ZONING CODE, TO ESTABLISH A SECTION AUTHORIZING THE TRANSFER OF DEVELOPMENT RIGHTS FROM ONE PARCEL OF LAND TO ANOTHER; PROVIDING FOR: INTENT; DEFINITIONS; TRANSFER OF DEVELOPMENT RIGHTS; DEVELOPMENT RIGHTS, SENDING AREA, RIGHTS CONVEYED, AND LIMITATION OF RIGHTS TRANSFERRED; SENDING AREA MINIMUM SIZE, TOTAL TRANSFER; RESIDUAL RIGHTS; LIMITATIONS ON THE USE OF TRANSFERRED DEVELOPMENT RIGHTS; TRANSFERRED DEVELOPMENT RIGHTS BONUS MAXIMUMS; REASSIGNMENT OF TRANSFERRED DEVELOPMENT RIGHTS; RECOGNITION OF TRANSFERRED DEVELOPMENT RIGHTS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; INCLUSION IN CODE; AND EFFECTIVE DATE.

WHEREAS, the Local Government Comprehensive Planning Act of 1975, as amended, Section 163.3161 et. seq., Florida Statutes, requires each local government to adopt a Comprehensive Plan to guide and manage future development; and

WHEREAS, the Board of County Commissioners of Palm Beach County, pursuant to said Act, adopted Ordinance No. 80-8, establishing a Comprehensive Plan for Palm Beach County; and

WHEREAS, the Palm Beach County Comprehensive Plan contains a section entitled "Transfer of Development Rights," which provides for removal of development rights from certain lands designated for agricultural use or lands which have physical characteristics which should be conserved or preserved and transfer of those development rights to other lands which have been designated in the Comprehensive Plan as within the Urban Service Area of the County; and

WHEREAS, the Board of County Commissioners of Palm Beach County now finds and determines that it is in the public's best interest to establish a mechanism and procedure for the transfer of Development Rights.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:

SECTION I.

Section 500.34 of the Palm Beach County Zoning Code, Ordinance No. 73-2, as amended, is hereby created to read;

500.34 Transfer of Development Rights.

It is the intent of this Section to establish the mechanism and criteria for the Transfer of Development Rights consistent with standards contained within Ordinance No. 80-8, which adopted the Palm Beach County Comprehensive Plan.

A. DEFINITIONS.

1. Development Rights. The ability to utilize a particular

property under the Palm Beach County Comprehensive Plan, the Zoning Code and all other applicable development ordinances, rules and regulations other than those uses, improvements or development allowable within the "Agricultural Preservation" District, as such district exists at the time of transfer.

2. Reserve Area. That portion of the unincorporated area of Palm Beach County designated as "Reserve Area" by the Palm Beach County Comprehensive Plan Ordinance No. 80-8, as amended from time to time.

3. Conservation Area. That portion of the unincorporated area of Palm Beach County designated as "Conservation Area" by the Palm Beach County Comprehensive Plan Ordinance No. 80-8, as amended from time to time.

4. Urban Service Area. That portion of the unincorporated area of Palm Beach County designated as the "Urban Service Area" by the Palm Beach County Comprehensive Plan, Ordinance No. 80-8, as amended, as such area may change from time to time, pursuant to the procedures set forth within said plan.

5. Dwelling Unit. A house, apartment, or building unit used for human habitation designed for and limited to the use of a single family.

B. TRANSFER OF DEVELOPMENT RIGHTS.

Development Rights existing on property located within sending areas, as defined in Subsection D herein, may be transferred pursuant to the procedure contained in this Section to property, qualified to receive such density according to standards contained in the Palm Beach County Comprehensive Plan, in the unincorporated portion of the County within the Urban Service Area.

C. DEVELOPMENT RIGHTS, SENDING AREAS, RIGHTS CONVEYED, AND LIMITATION OF RIGHTS TRANSFERRED.

1. Sending Areas. Development Rights may be transferred only from property within the unincorporated portion of Palm Beach County that is within a "Reserve Area" or "Conservation Area."

2. Development Rights may be transferred according to the following schedule:

a) Development Rights may be transferred from property in the "Reserve Area" at the rate of four dwelling units for each five acres (4du/5ac) of sending property.

b) Development Rights may be transferred from property in

1 the "Conservation Area" at the rate of one dwelling unit for each five acres
2 (1du/5ac) of sending property.

3 3. The Development Rights transferrable pursuant to this
4 Section shall be limited to the transfer of density for dwelling units as
5 enumerated in Section 2 a and b, and the transferee shall not be entitled
6 to any other rights whatsoever.

7 D. SENDING AREA MINIMUM SIZE, TOTAL TRANSFER.

8 To qualify for the benefits of this Ordinance and to be
9 eligible to transfer any Development Rights, the sending property must be at
10 least five acres in size. The transfer of any Development Rights from any
11 given parcel shall be conclusively deemed a total transfer of all allowable
12 transferable Development Rights for that parcel pursuant to this Section.

13 E. RESIDUAL RIGHTS.

14 Any parcel from which Development Rights have been trans-
15 ferred, shall have residual rights consisting of the uses permitted in the
16 "Agricultural Preservation" District as specified in the Palm Beach County
17 Zoning Code Ordinance No. 73-2, as amended from time to time.

18 F. LIMITATIONS ON THE USE OF TRANSFERRED DEVELOPMENT RIGHTS.

19 Transfer of Development Rights are subject to the following
20 limitations:

21 1. The receiving property must be within a Planned Unit
22 Development, within the Urban Service Area of the unincorporated portion of
23 Palm Beach County. The use of the transferred rights must be approved as a
24 bonus density as part of the Special Exception application for the Planned
25 Unit Development. This approval shall be subject to the bonus maximum set
26 forth in Section G herein.

27 2. Transfer of Development Rights may only be used as bonuses
28 within Planned Unit Developments that, with the additional density, will fully
29 comply with all the performance standards as set forth in the Palm Beach
30 County Comprehensive Plan, as amended from time to time.

31 3. The use of Transfer Development Rights must be in full
32 compliance with the provisions of the Palm Beach County Zoning Code Ordinance
33 No. 73-2, as amended from time to time.

34 4. The Transfer of Development Rights shall be accomplished
35 by recording an instrument of conveyance in a form acceptable to the Palm
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1 Beach County Attorney. This instrument shall describe both the sending and
2 the receiving property and shall be recorded in the Official Records of
3 Palm Beach County, Florida.

4 5. The Transfer of Development Rights from a sending property
5 shall forever restrict the use of that property to those uses allowable in
6 the Agricultural Preservation District and no other use of whatever kind or
7 nature shall be permitted, constructed or suffered upon said sending property.
8 This restriction shall constitute a covenant running with the land and shall
9 be binding upon descendants, heirs and assigns.

10 G. TRANSFERRED DEVELOPMENT RIGHTS BONUS MAXIMUMS.

11 Development Rights transferred in accordance with this
12 Ordinance, may be used in receiving areas at the maximum rates listed below,
13 and shall be used as bonuses in addition to the Planned Unit Development
14 bonuses authorized as part of the Zoning approval.

15 1. Transfer Development Rights bonuses shall not be permitted
16 in any Agricultural Preservation (AP), Agricultural Residential (AR),
17 Residential Estate (RE), Residential Transition (RT), or Residential
18 Transition Single Family (RTS).

19 2. In (RS) Residential Single Family Zones, the maximum
20 Transferred Development Rights bonus permitted shall be three dwelling units
21 per acre (3.0du/ac).

22 3. In (RM) Residential Medium Density Zones, the maximum
23 Transferred Development Rights bonus permitted shall be four dwelling units
24 per acre (4du/ac).

25 4. In (RH) Residential High Density Zones, the maximum
26 Transferred Development Rights bonus permitted shall be six dwelling units
27 per acre (6 du/ac).

28 H. REASSIGNMENT OF TRANSFERRED DEVELOPMENT RIGHTS.

29 Where Development Rights have been transferred to a Planned
30 Unit Development within the Urban Service Area in accordance with the
31 requirements of this Ordinance, and where those rights have not been
32 utilized by the grantee of those rights, the Development Rights
33 originally transferred may be reconveyed to another receiving property within
34 the Urban Service Area provided that all conditions required by this
35 Ordinance are met.
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1 I. RECOGNITION OF TRANSFERRED DEVELOPMENT RIGHTS.

2 Transfer of Development Rights shall be recognized by the
3 County, and may be applied as bonuses in accordance with this Section when
4 an approved instrument of conveyance has been recorded in the Office of the
5 Clerk of the Circuit Court as provided by law.

6 SECTION 2. REPEAL OF LAWS IN CONFLICT.

7 All Laws and Ordinances of Palm Beach County in conflict with
8 any provisions of this Ordinance are hereby repealed to the extent of such
9 conflict only.

10 SECTION 3. SEVERABILITY.

11 Should any section, paragraph, sentence, clause or word of
12 this Ordinance be held unconstitutional, inoperative or void, such holding
13 shall not affect the validity of the remainder of this Ordinance.

14 SECTION 4. INCLUSION IN CODE.

15 The provisions of this Ordinance shall become and be made a
16 part of the Code of Laws and Ordinances of Palm Beach County, Florida, and
17 the various sections may be retitled, renumbered or relettered to
18 accomplish said inclusion.

19 SECTION 5. EFFECTIVE DATE.

20 The provisions of this Ordinance shall become effective upon
21 receipt of acknowledgement of the Secretary of State, State of Florida.

22 APPROVED AND ADOPTED by the Board of County Commissioners of
23 Palm Beach County, Florida, on this 10th day of NOVEMBER, 1981.

24 PALM BEACH COUNTY, FLORIDA, BY ITS
25 BOARD OF COUNTY COMMISSIONERS

26 By: [Signature]
Chairman

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28 Acknowledgement by the Department of State of the State of
29 Florida, this 19th day of November, 1981, at --- M., and filed
30 in the Office of the Clerk of the Board of County Commissioners of Palm
31 Beach County, Florida.

32 EFFECTIVE DATE: November 29, 1981

33 APPROVED AS TO FORM AND
34 LEGAL SUFFICIENCY

1:44 P.M.

35 By: [Signature]
County Attorney